

[Advisory Opinion 1998-8]

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

June 10, 1998

An Associate County Attorney, who entered her appearance as co-counsel for Montgomery County in the appeal of an action against a certain bank, asked the Commission if the conflict of interest provisions of §19A-11(a)(2)(H) of the Ethics Law prohibit her from participating in the appeal because she maintains two bank accounts at and has two outstanding loans with the bank.

Pertinent Facts

1. The requester entered her appearance as co-counsel on behalf of the County in a matter in the Court of Special Appeals of Maryland in which the County seeks review and reversal of an adverse decision of the Circuit Court for Montgomery County in a dispute between the County and the bank.
2. The requester maintains two deposit accounts at the bank and has two motor vehicle loans presently outstanding with the bank.
3. The income from the deposit accounts is less than \$1,000 per year.
4. The loans do not constitute a source of income and do not have a mechanism for alteration absent a payment default.
5. The outcome of the litigation will have no impact on either the deposit accounts or the loans.

Applicable Law

The Montgomery County Code prohibits a public employee from participating in certain matters if a creditor or debtor of the employee can directly and substantially affect an economic interest of the public employee or a relative of the public employee:

- (a) Unless permitted by a waiver, a public employee must not participate in:

* * *

- (2) Any matter if the public employee knows or reasonably should know that any party to the matter is:

* * *

- (H) any creditor or debtor of the public employee or a relative if the creditor or debtor can directly and substantially affect an economic interest of the public employee or relative.

Montgomery County Code, §19A-11. For the purposes of this provision, "interest or economic interest" means "any source of income or any other legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly."

Conclusion & Advice

On the facts presented by the requester, the Commission concluded that the bank cannot directly and substantially affect an economic interest of the public employee or a relative of the public employee. Therefore, the Commission advised the requester that §19A-11(a)(2)(H) did not prohibit the requester from participating in the appeal.